

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. BEAU WESLEY GENSMER,

2. CHRISTOPHER GLENN KENNEDY, and

3. CAMERON ROLAND BAIRD,

Defendants.

INDICTMENT

CR-10-109 DSD/JJG

(18 U.S.C. § 2)

(18 U.S.C. § 982(a)(1))

(18 U.S.C. § 1343)

(18 U.S.C. § 1349)

(18 U.S.C. § 1957)

(28 U.S.C. § 2461(c))

THE UNITED STATES GRAND JURY CHARGES THAT:

BACKGROUND

1. At all relevant times, defendants Beau Gensmer and Christopher Kennedy were residents of the state of Minnesota.
2. At all relevant times, defendant Cameron Baird was a resident of the state of California.
3. In approximately April 2007, an entity ("Entity A") then partly owned by defendant Gensmer's close relative ("Individual A"), completed construction of a multi-unit condominium building in the state of Minnesota.
4. The condominium units in the building were listed for sale on the real estate market. They were removed from the market after remaining unsold for approximately three months.

FILED APR 21 2010
RICHARD D. SLETTEN, CLERK
JUDGMENT ENTERED
DEPUTY CLERK'S INITIALS

①

U.S. v Beau Wesley Gensmer, et al.

THE SCHEME

5. From in or about July 2007 through in or about September 2008, in the State and District of Minnesota and elsewhere, the defendants,

BEAU WESLEY GENSMER,
CHRISTOPHER GLENN KENNEDY, and
CAMERON ROLAND BAIRD,

and others known and unknown to the grand jury, each aiding and abetting the other, devised and intended to devise a scheme and artifice to defraud mortgage loan lenders and to obtain money by means of materially false and fraudulent pretenses, representations, and promises, and concealment of material facts.

6. After the condominium units were removed from the real estate market, defendants Gensmer and Kennedy solicited individuals, termed "investors," to buy the condominium units at prices higher than the previous list prices.
7. To secure investors, defendants Gensmer and Kennedy told potential investors that the investor would not pay anything to purchase the condominium unit(s), because defendants Gensmer and Kennedy would provide money to pay the down payment and the monthly mortgage payments.
8. Defendants Gensmer and Kennedy further told potential investors that the condominium units would be rented for a

U.S. v Beau Wesley Gensmer, et al.

time and ultimately sold at a profit in which the investor would share.

9. Defendant Baird was one of the original investors secured by Defendants Gensmer and Kennedy, and ultimately purchased nine units in the building.
10. Together, defendants Gensmer and Kennedy, in part with the assistance of defendant Baird, secured at least two more investors to purchase additional condominium units, with each investor purchasing multiple units.
11. Once an investor agreed to purchase a condominium unit, defendant Kennedy contacted one or more accountants to prepare tax returns or to amend previously filed tax returns on behalf of the investor.
12. Defendants Kennedy and Baird provided false information concerning the investors' income to accountants that defendant Kennedy had hired to prepare the investors' tax returns.
13. Defendants Kennedy and Baird provided this false information to generate tax returns that both reflected higher incomes and could be provided to potential mortgage loan lenders with the other mortgage loan application documents. After receiving these documents, mortgage loan lenders approved the mortgage loans necessary for the investor to purchase the condominium

U.S. v Beau Wesley Gensmer, et al.

units. The false tax returns, and the false income information, were material to lenders.

14. Defendants Gensmer and Kennedy also temporarily deposited money into certain investors' bank accounts to make it appear that the investors were in a stronger financial position than they actually were.
15. Defendant Kennedy, directly and with the assistance of others, conveyed these false representations concerning the investors' financial status - their income and assets - to potential mortgage loan lenders through the mortgage loan application process. These representations were material.
16. Once defendants Gensmer and Kennedy secured mortgage loan funding for an investor's purchase of a condominium unit, they completed the investor's purchase of the condominium unit through a title company ("Title Company A") owned in part by individuals who also had an ownership interest in Entity A.
17. The proceeds of these sales were used by Entity A to pay down the construction loan Entity A had secured to build the condominium building and by defendants Gensmer and Kennedy to pay the down payments and other costs related to subsequent investor purchases of one or more condominium units.
18. Ultimately, and contrary to their promises, defendants Gensmer and Kennedy stopped providing money to the investors to pay

U.S. v Beau Wesley Gensmer, et al.

the mortgage loan payments on the condominium units, resulting in investors defaulting on the mortgage loans.

19. Through the scheme, defendants Gensmer, Kennedy, and Baird facilitated the securing of approximately \$3.1 million in mortgage loans.

COUNTS 1-15

(Wire Fraud)

20. The grand jury re-alleges the allegations contained in paragraphs 1 through 19, of this Indictment.
21. On or about the dates set forth below, in the State and District of Minnesota, the defendants,

**BEAU WESLEY GENSMER,
CHRISTOPHER GLENN KENNEDY, and
CAMERON ROLAND BAIRD,**

along with others known and unknown to the Grand Jury, each aiding and abetting the other, for the purpose of executing the above-described scheme and artifice to defraud mortgage loan lenders, did knowingly cause to be transmitted, in interstate commerce, by means of wire communication, certain signals and sounds, as further described below:

Count	On or About Date	Wire Communication
1	September 25, 2007	Wire transfer of \$162,571.60 from a National City Bank account outside Minnesota to a Klein Bank account in Minnesota

U.S. v Beau Wesley Gensmer, et al.

2	October 19, 2007	Wire transfer of \$160,576.41 from a Wells Fargo Bank account outside Minnesota to a Klein Bank account in Minnesota
3	November 9, 2007	Wire transfer of \$160,834.64 from a Wells Fargo Bank account outside Minnesota to a Klein Bank account in Minnesota
4	November 9, 2007	Wire transfer of \$160,897.14 from a Wells Fargo Bank account outside Minnesota to a Klein Bank account in Minnesota
5	November 29, 2007	Wire transfer of \$144,166.78 from a National City Bank account outside Minnesota to a Klein Bank account in Minnesota for purchase of unit 113
6	November 29, 2007	Wire transfer of \$144,166.78 from a National City Bank account outside Minnesota to a Klein Bank account in Minnesota for purchase of unit 108
7	November 30, 2007	Wire transfer of \$168,306.11 from an HSBC Bank account outside Minnesota to a Klein Bank account in Minnesota
8	December 4, 2007	Wire transfer of \$166,828.08 from a Colonial Bank account outside Minnesota to a Klein Bank account in Minnesota
9	December 13, 2007	Wire transfer of \$199,042.74 from a Colonial Bank account outside Minnesota to a Klein Bank account in Minnesota

U.S. v Beau Wesley Gensmer, et al.

10	January 11, 2008	Wire transfer of \$187,770.31 from a Colonial Bank account outside Minnesota to a Klein Bank account in Minnesota
11	January 14, 2008	Wire transfer of \$188,501.65 from a Wells Fargo Bank account outside Minnesota to a Klein Bank account in Minnesota
12	January 22, 2008	Wire transfer of \$187,003.40 from a Bank United account outside Minnesota to a Klein Bank account in Minnesota for purchase of unit 105
13	January 22, 2008	Wire transfer of \$187,003.40 from a Bank United account outside Minnesota to a Klein Bank account in Minnesota for purchase of unit 106
14	March 6, 2008	Wire transfer of \$188,171.09 from a JP Morgan Chase Bank account outside Minnesota to a Klein Bank account in Minnesota
15	August 6, 2008	Wire transfer of \$166,928.94 from National City Bank account outside Minnesota to a U.S. Bank account in Minnesota

All in violation of Title 18, United States Code, Section 1343 and 2.

COUNT 16

(Conspiracy to Commit Wire Fraud)

22. The grand jury re-alleges the allegations contained in paragraphs 1 through 19, of this Indictment.

U.S. v Beau Wesley Gensmer, et al.

23. From in or about 2007, continuing through in or about 2008, within the State and District of Minnesota and elsewhere, defendants,

**BEAU WESLEY GENSMER,
CHRISTOPHER GLENN KENNEDY, and
CAMERON ROLAND BAIRD,**

and others known and unknown to the grand jury, did knowingly and willfully combine, conspire, and agree with each other and other persons known and unknown to the Grand Jury to commit offenses against the United States, including:

Executing a scheme and artifice to defraud and to obtain money and property from mortgage loan lenders, by knowingly causing to be transmitted, in interstate commerce, by means of wire communication, certain signals and sounds, in violation of Title 18, United States Code, Section 1343.

PURPOSE OF THE CONSPIRACY

24. The purpose of the conspiracy was to defraud mortgage loan lenders of approximately \$3.1 million in mortgage loan proceeds.

MANNER AND MEANS

25. The manner and means of the conspiracy included:

- a. soliciting investors to purchase the condominium units;
- b. offering a potential investor the opportunity to live rent free in the condominium building;

U.S. v Beau Wesley Gensmer, et al.

- c. offering potential investors money to pay the down payment, cash to close, and mortgage payments for the condominium units purchased;
- d. providing false information to accountants concerning investors' income;
- e. causing the preparation of false tax returns;
- f. temporarily depositing money into investors' bank accounts;
- g. causing false documents to be provided to potential mortgage loan lenders;
- h. causing the funding of mortgage loans based on false information; and
- i. causing the preparation of false closing documents for investors' purchase of the condominium units.

All in violation of Title 18, United States Code, Section 1349.

COUNTS 17-18

(Engaging in a Monetary Transaction In Property Derived
From Specified Unlawful Activity)

- 26. The grand jury re-alleges the allegations contained in paragraphs 1 through 19, of this Indictment.
- 27. On or about the dates set forth below, the defendants,

**BEAU WESLEY GENSMER,
CHRISTOPHER GLENN KENNEDY, and
CAMERON ROLAND BAIRD,**

U.S. v Beau Wesley Gensmer, et al.

each aiding and abetting the other, did knowingly engage and attempt to engage in a monetary transaction by, through, or to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, as set forth below:

COUNT	ON OR ABOUT	MONETARY TRANSACTION
17	November 29, 2007	Wells Fargo Bank cashier's check #0965204051 payable to Title Company A for \$40,920.13
18	November 29, 2007	Wells Fargo Bank cashier's check #0965204052 payable to Title Company A for \$34,029.87

All in violation of Title 18, United States Code, Sections 1957 and 2.

FORFEITURE ALLEGATIONS

The Grand Jury realleges and incorporates paragraphs 1 through 27 of the Indictment, and makes it a part of these forfeiture allegations.

As the result of the offenses alleged in Counts 1 through 16 of this Indictment, the defendants,

**BEAU WESLEY GENSMER,
CHRISTOPHER GLENN KENNEDY, and
CAMERON ROLAND BAIRD,**

U.S. v Beau Wesley Gensmer, et al.

shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), all their rights, title and interest in any property constituting, or derived from, proceeds traceable to the violations of Title 18, United States Code, Section 1343, 1349 and 2.

As a result of the offenses alleged in Counts 17 and 18 of the Indictment, the defendants,

**BEAU WESLEY GENSMER,
CHRISTOPHER GLENN KENNEDY, and
CAMERON ROLAND BAIRD,**

shall forfeit to the United States pursuant to Title 18, United States Code, Section 982(a)(1), all their rights, title and interest in all property, real and personal, involved in said money laundering violations and in all property traceable to such property, including the sums of money involved in Counts 17 and 18.

If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or

U.S. v Beau Wesley Gensmer, et al.

(5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property. All in violation of Title 18, United States Code, Sections 2, 981(a)(1)(C), 982(a)(1), 1343, 1349, 1957 and Title 28, United States Code, Section 2461(c).

A TRUE BILL

UNITED STATES ATTORNEY

FOREPERSON